

No. 22-7390

ORIGINAL

Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Robert J. Turner — PETITIONER
(Your Name)

vs.

United States — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Court of Appeals for the Fourth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Robert J. Turner
(Your Name)
Federal Correctional Complex, USP-1
P.O. Box 1033
(Address)

Coleman, FL 33521-1033
(City, State, Zip Code)

None
(Phone Number)

QUESTION(S) PRESENTED

Robert James Turner filed a post-judgment Motion to dismiss indictment in the U.S. District Court for the Eastern District of Virginia under Fed. R. Crim. P. 12(b)(2), contending that the district court lacked jurisdiction over his case. The district court ultimately adopted the government's argument in opposition to Turner's motion by stating that Turner "stipulated" to jurisdiction over Lorton Reformatory Correctional Complex ("Lorton Facility") where the offense allegedly took place, and noted that it was an "unassailable fact that the Lorton Facility was within the Special Maritime and Territorial jurisdiction of the United States..." Case No. 1:96-cr-00374-LMB, Doc. 93 at 1. Turner timely appealed.

On direct appeal, the Fourth Circuit characterized Turner's motion to dismiss as "a successive 28 U.S.C. 2255 motion," determined that "the district court lacked jurisdiction to hear" the presumed second or successive motion, denied a certificate of appealability, and dismissed the appeal. USCA4 Case No. 22-7314, Jan. 20, 2023. The Fourth Circuit never considered any of Turner's arguments even though the interest of justice so required it. See 18 U.S.C. 3231; See also 28 U.S.C. 1291. It also bears emphasis that Turner unequivocally identified his motion to dismiss as a motion under Fed. R. Crim. P. 12, and asserted that 28 U.S.C. 2255(h)'s "gate-keeping authority" did not apply to his case. See Turner's Motion to dismiss at 1, dated Aug. 29, 2022.

The appellate grounds argued were as follows: (1) that "the district court's conclusion" as to the question of jurisdiction was "a drive-by jurisdictional ruling"; (2) that Turner's "stipulation does not cure a judgment that is void from its inception"; (3) that neither the "law-of-the-case" doctrine, "prior-precedent-rule," or 28 U.S.C. 2255(h) governed his case; and (4) that the government engaged in "Federalism" in violation of the Tenth Amendment because his conduct "did not fall within the scope of the Assimilative Crimes Act..." Appeal No. 22-7314, Turner's Informal Brief at 1-7. (Next Page)

Robert J. Turner v. United States; Question(s) Presented (cont'd)

Since the appellate record is silent as to every issue raised by Mr. Turner, and both the government and district court relied almost exclusively on Turner's jurisdictional "stipulation" involving the Lorton Facility, can this stipulation [legally] defeat any challenge to the district court's jurisdiction over Turner's case?

Moreover, was the disposition a "drive-by jurisdictional ruling" by the district court, and "facit" drive-by jurisdictional ruling by the Fourth Circuit Court of Appeals? [for its failure to consider it?]

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

United States v. Turner, Appeal No. 22-7314 (4th Cir. 2023)

United States v. Turner, Case No. 1:96-cr-00374-LMB (E.D. Va., Dec. 31, 2022)

United States v. Turner, 794 Fed. Appx. 320 (4th Cir. 2020)

United States v. Turner, Case No. 1:19-cr-01366-LMB (E.D. Va., 2019)

United States v. Turner, 1998 U.S. App. LEXIS 2734 (4th Cir. 1998)

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE.....	
REASONS FOR GRANTING THE WRIT	
CONCLUSION.....	

INDEX TO APPENDICES

APPENDIX A	USCA 4 Appeal No. 22-7314 Opinion Attached
APPENDIX B	USDC Case No. 1:96-cr-00374-LMB (E.D. Va., Dec. 31, 2022), Doc. 98 Opinion Attached
APPENDIX C	
APPENDIX D	
APPENDIX E	
APPENDIX F	

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Adams v. United States, 319 U.S. 312 (1943), 12	12
AG v. Marathon Oil Co., 526 U.S. 574 (1999), 11	11
Anderson v. City of Bessemer City, 470 U.S. 564 (1985), 12	12
United States v. Cotton, 535 U.S. 625 (2002), 11	11
STATUTES AND RULES	
18 U.S.C. 13,	10
18 U.S.C. 1111,	10
18 U.S.C. 1117,	10
18 U.S.C. 3231,	2
28 U.S.C. 1291,	2
28 U.S.C. 2255,	2
40 U.S.C. 255,	11
53.1-203(4), Code of Virginia (1950),	10
Fed. R. Crim. P. 12,	2, 10
OTHER	
Black's Law Dictionary (11 th ed. 2019),	10

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

1.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 1-20-2023.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. __ A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. __ A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. CONST. amend. V.

U.S. CONST. amend. XIV.

18 U.S.C. 13

18 U.S.C. 1111

18 U.S.C. 1117

18 U.S.C. 3231

28 U.S.C. 1291

28 U.S.C. 2255

40 U.S.C. 255

53.1-203(4), Code of Virginia (1950)

STATEMENT OF THE CASE

A federal grand jury returned a three count indictment against petitioner, charging that he engaged in offenses at the Lorton Reformatory Correctional Complex in violation of 18 U.S.C. 1117 (Count One); 18 U.S.C. 1111 and 2 (Count Two), and 18 U.S.C. 13, assimilating 53.1-203(4) Code of Virginia, 1950, as Amended (Count Three). Petitioner was convicted, after a jury trial, on premeditated first degree murder and possession of contraband by a prisoner, sentenced to life imprisonment, and a consecutive 41 month term.

The United States Court of Appeals for the Fourth Circuit affirmed petitioner's conviction and sentence, and later dismissed an appeal in relation to a previous Section 2255 motion denied by the district court. See United States v. Turner, 1998 U.S. App. LEXIS 2734 (4th Cir. 1998); See also United States v. Turner, 794 Fed. Appx. 320 (4th Cir. 2020); U.S. Dist. Court Case No. 1:19-cv-01366-LMB (E.D. Va.).

Several years later, Turner moved to have the indictment dismissed under Fed. R. Crim. P. 12(b)(2), which was rejected by the district court and mischaracterized by the Fourth Circuit, prompting the instant Petition for Writ of Certiorari.

REASONS FOR GRANTING THE PETITION

The Fifth and Fourteenth Amendments prohibit the government from depriving a person of life, liberty, or property without due process of law. U.S. CONST. amends. V, XIV. Challenges to a court's jurisdiction in criminal cases go to the very essence of due process because it means the difference between a person's freedom, and loss thereof. See Black's Law Dictionary 632 (11th Cir. 2019) (defining the "Due Process Clause"); *Id.* at 1017 (defining "Jurisdiction"). This Court has held that "subject-matter jurisdiction, because it involves a court's power to hear a case, can never be forfeited or waived." *United States v. Cotton*, 535 U.S. 625, 630 (2002). "Because subject matter limitations on federal jurisdiction serve institutional interests by keeping the federal courts within the bounds that the Federal Constitution and Congress have prescribed, subject matter delineations must be policed by the courts on their own initiative even at the highest level." *AG v. Marathon Oil Co.*, 526 U.S. 574, 583 (1999).

In the case at bar, the district court merely assumed it had jurisdiction over Turner based on formally "established... jurisdictional notice," and on the basis of his "stipulation." But this Court has held that "Unless and until notice of acceptance of jurisdiction has been given, Federal courts are without jurisdiction to punish under criminal laws of the United States an act committed on lands acquired by the United States, where the applicable statute (Act of Oct. 9, 1940, 40 U.S.C. 255) provides that United States agencies and authorities may accept exclusive or partial jurisdiction over lands acquired by the United States by filing notice with the governor of the state, or by taking other similar appropriate action, and that unless and until the United States has accepted jurisdiction it shall be conclu- (next page) page 11

Robert J. Turner v. United States; Reasons For Granting The Petition (Cont'd)

sively] presumed that no such jurisdiction has been accepted." Adams v. United States, 319 U.S. 312, 313-15 (1943).

Here, the question of jurisdiction was not even considered on the appellate level. "A finding of fact," or lack thereof as inherent in this case, "is clearly erroneous when although there is evidence to support it, the reviewing court, on the entire evidence, is left with the definite and firm conviction that a mistake has been committed." Anderson v. City of Bessemer City, 470 U.S. 564, 573 (1985). Both the district court's ruling and appellate court's oversight in this matter has so far departed from the accepted and usual course of judicial proceedings, it calls for an exercise of this Court's supervisory power.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Robert J. Turner

Date: April 10, 2023